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December 12, 2019

Via E-mail and ECF

The Honorable Analisa Torres, U.S.D.J.
United States District Court for the
Southern District of New York
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

**Re: Endurance Assurance Corporation v. Whitlock & Shelton
Construction, Inc., et al.
Docket No. 19 Civ. 9796 (AT)**

Letter Motion to Adjourn the Initial Pretrial Conference

Dear Judge Torres:

We write on behalf of the Plaintiff, Endurance Assurance Corporation (“Plaintiff”), in the above-referenced matter. We respectfully request an adjournment of the Initial Pretrial Conference scheduled before Your Honor on December 19, 2019, pursuant to the Court’s October 25, 2019 Initial Pretrial Conference Order.

The Defendants have not yet entered an appearance in this matter. This week, we spoke with one of the Defendants, Scott Shelton. We understand that the Defendants have not yet retained New York counsel.¹ We are also exploring, without waiver, a potential pre-Answer resolution with the Defendants.

Based upon our conversation with certain of the Defendants and our understanding that the Defendants have not yet retained counsel in this matter, we respectfully request that the Court adjourn the December 19, 2019 Initial Pretrial Conference, as well as the deadline for the initial joint letter and related case management filings, for thirty (30) days. Such an adjournment would allow the parties the opportunity to explore a potential

¹ As set forth in Paragraph Two of the Complaint, venue is proper in this Court pursuant to the terms of the General Agreement of Indemnity between the parties. See Doc. No. 1 at ¶ 2. Jurisdiction is also conferred upon this Court pursuant to 28 U.S.C. § 1332, in that the parties are citizens of different states and the amount in controversy exceeds \$75,000.00. See Doc. No. 1 at ¶¶ 1, 3-10.

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resolution in this matter before the Defendants are required to file an Answer, and, if necessary, allow the Defendants to retain New York counsel and appear in this litigation.

This is the first adjournment request for the Initial Pretrial Conference. We propose the following schedule for the Initial Pretrial Conference and related filings:

- Initial Pretrial Conference: January 21, 2020;
- Joint Letter and Proposed Case Management Plan and Scheduling Order: January 14, 2020.

We thank the Court in advance for its attention to this matter. Should Your Honor have any questions or concerns, please contact the undersigned.

Respectfully submitted,

**McELROY, DEUTSCH, MULVANEY &
CARPENTER, LLP**
*Attorneys for Endurance Assurance
Corporation*

/s/ *Kevin S. Brotspies*

Kevin S. Brotspies, Esq.

cc (via Regular Mail): Whitlock & Shelton Construction, Inc.
Whitlock & Shelton Enterprises, LLC
Whitlock & Shelton Properties, Inc.
Alvin Whitlock
Misty Whitlock
Scott Shelton
Taryn Shelton

GRANTED in part, DENIED in part. The initial pretrial conference scheduled for December 19, 2019 is ADJOURNED to **January 15, 2020 at 11:40 a.m.** By **January 8, 2020**, the parties shall submit their proposed case management plan and joint letter.

SO ORDERED.


ANALISA TORRES
United States District Judge

Dated: December 12, 2019
New York, New York